

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA  
Criminal No. 18-171 (DSD/KMM)

United States of America,

Plaintiff,

v.

**ORDER**

Henry James Soll, III,

Defendant.

This matter is before the court upon the objection by defendant Henry James Soll, III, to the December 13, 2018, report and recommendation (R&R) of United States Magistrate Judge Katherine Menendez. Based on a review of the file, record, and proceedings herein, and for the following reasons, the court overrules the objection.

**BACKGROUND**

The background of this matter is fully set forth in the R&R, and the court incorporates those facts by reference.<sup>1</sup> The magistrate judge recommended that the court deny Soll's motion to suppress evidence resulting from the June 4, 2018, warrantless search of his person and warrant-based search of his apartment and car.

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<sup>1</sup> Soll does not object to the facts as set forth in the R&R, only the application of those facts to the law.

## DISCUSSION

The court reviews the R&R de novo. 28 U.S.C. § 636(b)(1)(C); Fed. R. Crim. P. 59(b); D. Minn. LR 72.2(b).

Soll objects to the magistrate judge's recommendation that the court deny his motion challenging the admissibility of the evidence seized. He argues that the evidence should be suppressed under the Fourth Amendment because the warrantless search of his person was not supported by probable cause and the warrant authorizing the search of his apartment and car also lacked probable cause.

The court has carefully reviewed the R&R, the parties' memoranda of law, and the evidence submitted at the suppression hearing. Based on that review, the court finds that, for the reasons set forth in the R&R, the search of Soll's person and the warrant were both supported by probable cause. The court also notes that suppression of the evidence seized pursuant to the warrant is not appropriate under the good-faith exclusionary rule exception. See United States v. Clay, 646 F.3d 1124, 1127 (8th Cir. 2011) (internal citation omitted) (holding that the "exclusionary rule should not be applied so as to bar the admission of evidence obtained by officers acting in reasonable reliance on a search warrant issued by a detached and neutral magistrate, even if that search warrant is later held to be invalid."). Finding no Fourth Amendment violation, Soll's objection is overruled.

## CONCLUSION

Accordingly, **IT IS HEREBY ORDERED** that:

1. The R&R [ECF No. 44] is adopted in its entirety;
2. The objection to the R&R [ECF No. 45] is overruled; and
3. The motion to suppress evidence [ECF No. 22] is denied.

Dated: January 16, 2019

s/David S. Doty

David S. Doty, Judge

United States District Court